

## REPLY COMMENTS OF THE COUNTY OF CABARRUS, NORTH CAROLINA

These comments are filed by the County of Cabarrus, North Carolina, in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, the County of Cabarrus believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in our community.

### 1. Our community and the status of cable modem service.

The County of Cabarrus is a county of 135,000 people. It is served by Time Warner Cable. The cable system serving our community offers subscribers a total of about 254 channels, including duplicated and music-only channels. Cable modem service is offered in our community.

2. Our franchise was issued January 1, 1998 and did not directly address cable modem service. However, under our franchise the definition of gross revenues is broad enough to include cable modem service. Pursuant to that provision, we were entitled to receive franchise fees on cable modem service. We received about \$50,000 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. Our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms. We estimate that we will lose \$ 300,000 over the next 5 years if we cannot charge a fee on revenues from cable modem service.

Neither the franchise requirements nor the fees have prevented or delayed the rollout of cable modem service in our community.

### 3. How we regulate cable modem service.

From time to time we receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects: -Cable modem service is marketed jointly with cable service.

-When we get complaints about promotional practices, the complaint may apply to both services.

-A single bill is sent for cable modem and cable services, so billing complaints involve both.

-Customer service calls go to a single number, so telephone-answering policies affect both.

-A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations

and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

Respectfully submitted,

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